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HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.No. 3615/2006

CORAM: Hon'ble Shri **S.R.Nayak**, Chief Justice &
Hon'ble Shri **D.R.Deshmukh**, J.

PETITIONER : Maharaja Vikramaditya Transport Company, Through Proprietor Sanjay Kumar Yadav, S/o Shri Hanuman Yadav, aged about 32 years, R/o Dhamdha Naka, Durg, District Durg (C.G.)

Versus

RESPONDENTS: : 1. The Chhattisgarh State Civil Supplies Corporation Limited, Through- the Managing Director, Head office, Bal Ashram Parisar, Near District Court Square (Kuchehary Chowk), Raipur (C.G.)

: 2. The District Manager, The Chhattisgarh State Civil Supplies Corporation Limited, Swaroop Talkies Road, Behind Nehru School, Durg (C.G.)

Shri, M.P.S. Bhatia & Shri Rajeev Shrivastava, learned counsel for the Petitioner.
Shri Vivek Ranjan Tiwari, learned counsel for the Respondents.

ORAL ORDER
(Passed on 14.08.2006)

The following oral order of the Court was passed by **S. R. NAYAK, C.J.**

The petitioner is contractor. He was awarded a contract to carry out 30% of the work of transporting food-grains and essential commodities under the Public Distribution Scheme (P.D.S.). The petitioner was appointed by the respondent Corporation by resorting to the arrangement clause 1.7 of Notice Inviting Tender. When the matter stood thus, the Managing Director of the Chhattisgarh State Civil Supplies Corporation Limited, the first respondent, by its order dated 11.7.2006 terminated the contract. Feeling aggrieved by the said order, this writ petition is filed.

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2. Various grounds are urged in this writ petition and the same were reiterated and highlighted by the learned counsel appearing for the petitioner in the course of arguments. Opposing the writ petition, the Corporation has filed a detailed return. In the return, it is stated that a meeting of all the District Managers were held in the Office of the first respondent on 5.7.2006 and it was unanimously decided that availing of the second transporter should be resorted to only if first transporter failed to perform the transportation work. In the premise of that decision, the second respondent has cancelled the transportation work awarded to the petitioner.

3. Contentions such as that the respondents have no legal authority to terminate the contract; that there was absolutely no justification to terminate the contract; that the action of the respondents in cancelling the contract is arbitrary, unreasonable and violative of Article 14 of the Constitution of India, were urged before us in support of the writ petition by the learned counsel for the petitioner. There is no need for us to undertake adjudication of those points. We say this, because, if the contract work awarded to the petitioner in breach of the terms of the agreement is terminated to the prejudice of the petitioner-contractor and on account of such order, he has suffered any damage, it is open for the petitioner to work out his legal remedies before the jurisdictional Civil Court or Arbitral Forum. But, we are quite clear in our mind that under no circumstance, mandamus could go to the Corporation to continue the services of the petitioner as contractor despite the fact that as per the Corporation, there is no need for the second contactor. Issuance of such a direction would not fall within the legitimate domain of the power of review under Article 226 of the Constitution of India. We have one more

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weighty reason not to entertain this writ petition and undertake adjudication of the lis brought before the Court on merit. It is because the agreement between the parties contains an arbitration clause. Clause 14.1 of the Contract provides arbitration in case of any dispute arising out of the Contract between the parties. Therefore, the petitioner has to work out remedies, as provided under Clause 14.2 before the Arbitral Forum.

4. In the circumstance, we dismiss the writ petition. We, however, make it very clear that we should not be understood to have expressed any opinion on the merits of the matter and all contentions raised by the parties in their respective pleadings are left open to be agitated before the Arbitral Forum or the Civil Court, as the case may be. No costs.

Sd/-
Chief Justice

Sd-/
Dilip Raosaheb Deshmukh
Judge

Anjani